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BELL, BOYD & LLOYD, LLC PO BOX 1135 CHICAGO, IL 60690-1135			SHINGLES, KRISTIE D	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/874,022

Applicant(s)

EDECKER ET AL.

Examiner

Kristie Shingles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/16/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

*Applicant has not amended any claims.*

*Claims 1-61 are pending.*

1. The declaration filed on May 4, 2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the prior art of record, *Glezerman* (US Publication 2003/0207237) and *Whitfield* (US Publication 2002/0002491). Thus the rejection of claims 1-61 is sustained.

### **37 CFR 1.131 - AFFIDAVIT/DECLARATION**

#### **FORMALITIES**

The following parties may make an affidavit or declaration under 37 CFR 1.131:

(A) All the inventors of the subject matter claimed.

(B) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.

(C) \*\*>If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate.< .

(D) The assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. *Ex parte Foster*, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903).

Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the

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inventor(s). Thus, where all of the named inventors of a pending application are not inventors of every claim of the application, any affidavit under 37 CFR 1.131 could be signed by only the inventor(s) of the subject matter of the rejected claims. Further, where it is shown that a joint inventor is deceased, refuses to sign, or is otherwise unavailable, the signatures of the remaining joint inventors are sufficient. However, the affidavit or declaration, even though signed by fewer than all the joint inventors, must show completion of the invention by all of the joint inventors of the subject matter of the claim(s) under rejection. *In re Carlson*, 79 F.2d 900, 27 USPQ 400 (CCPA 1935). (MPEP 715.04)

A. The declaration fails to include the signature of all the inventors—only one of the three inventors signed the declaration. Therefore, the failure to include the signature of the other inventors renders the declaration defective, and the affidavit ineffective.

## SUBSTANCE

*Applicant is attempting to rely on conception of the invention prior to the effective date of the references (Glezerman, April 3, 2001 and Whitfield, April 17, 2001) coupled with due diligence from prior to the reference date (April 2, 2001 as indicated in Exhibit A) to the filing date of the application (constructive reduction to practice, June 5, 2001).*

## CONCEPTION

A general allegation that the invention was completed prior to the date of the reference is not sufficient. *Ex parte Saunders*, 1883 C.D. 23, 23 O.G. 1224 (Comm'r Pat. 1883). Similarly, a declaration by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference date, without a statement of facts demonstrating the correctness of this conclusion, is insufficient to satisfy 37 CFR 1.131.

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice “amounts essentially to mere pleading, unsupported by proof or a showing of facts” and, thus, does not satisfy the requirements of 37 CFR 1.131(b). *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also *In re Harry*, 333 F.2d 920, 142 USPQ 164 (CCPA 1964).

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(Affidavit “asserts that facts exist but does not tell what they are or when they occurred.”).

While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). (MPEP 715.07)

B. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the *Glezerman* and *Whitfield* references.

C. Applicant relies on Exhibits A and B to establish conception of the applicant’s claimed invention. The exhibits are draft versions disclosing substantive evidence of the invention. The Examiner has reviewed the exhibits and is of the opinion that the exhibits do provide sufficient evidence to support the conception of the claimed invention, however, Applicant indicates (see page 2, item 9 of the affidavit) that Exhibit A (dated April 2, 2001) was in “close to final form” but the next draft was not received until over a month later on May 3, 2001. The month interim between the third draft and final draft is not accounted for and is therefore speculative as to whether changes and/or corrections made to the draft were substantive changes as opposed to cosmetic changes.

### DILIGENCE

Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege that applicant or patent owner had been diligent. *Ex parte Hunter*, 1889 C.D. 218, 49 O.G. 733 (Comm’r Pat. 1889). Rather, applicant must show evidence of facts establishing diligence. (MPEP 715.07(a))

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D. In determining the sufficiency of a 37 CFR 1.131 affidavit or declaration, diligence need not be considered unless conception of the invention prior to the effective date is clearly established, since diligence comes into question only after prior conception is established. *Ex parte Kantor*, 177 USPQ 455 (Bd. App. 1958).

E. However, in the interest of compact prosecution of the application on all merits, the Examiner will comment briefly on Applicant's attempted showing of diligence.

Under 37 CFR 1.131, the critical period in which diligence must be shown begins just prior to the effective date of the reference or activity and ends with the date of a reduction to practice, either actual or constructive (i.e., filing a United States patent application). Note, therefore, that only diligence before reduction to practice is a material consideration. The "lapse of time between the completion or reduction to practice of an invention and the filing of an application thereon" is not relevant to an affidavit or declaration under 37 CFR 1.131. See *Ex parte Merz*, 75 USPQ 296 (Bd. App. 1947). (MPEP 715.07(a))

F. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the *Glezerman* and *Whitfield* references to either a constructive reduction to practice or an actual reduction to practice. Applicant's showing of diligence is insufficient. For Example, there is speculation as to the extent of the month-long corrections performed on the drafts (from April 2, 2001 to May 3, 2001) if, as claimed, the third draft on April 2<sup>nd</sup> was "in close to final form". Therefore the diligence fails to be established due to the failure to fully account for the indicated time interval gaps.

An applicant must account for the entire period during which diligence is required. *Gould v. Schawlow*, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966).

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The diligence of 35 U.S.C. 102(g) relates to reasonable "attorney-diligence" and "engineering-diligence" (*Keizer v. Bradley*, 270 F.2d 396, 397, 123 USPQ 215, 216 (CCPA 1959)).

Diligence requires that applicants must be specific as to dates and facts. The period during which diligence is required must be accounted for by either affirmative acts or acceptable excuses. (MPEP 2138.06)

An applicant must account for the entire period during which diligence is required. *Gould v. Schawlow*, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966) (Merely stating that there were no weeks or months that the invention was not worked on is not enough.); *In re Harry*, 333 F.2d 920, 923, 142 USPQ 164, 166 (CCPA 1964) (statement that the subject matter "was diligently reduced to practice" is not a showing but a mere pleading). A 2-day period lacking activity has been held to be fatal. *In re Mulder*, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983) (37 CFR 1.131 issue); *Fitzgerald v. Arbib*, 268 F.2d 763, 766, 122 USPQ 530, 532 (CCPA 1959) (Less than 1 month of inactivity during critical period. Efforts to exploit an invention commercially do not constitute diligence in reducing it to practice. An actual reduction to practice in the case of a design for a three-dimensional article requires that it should be embodied in some structure other than a mere drawing.); *Kendall v. Searles*, 173 F.2d 986, 993, 81 USPQ 363, 369 (CCPA 1949) (Diligence requires that applicants must be specific as to dates and facts.).

The period during which diligence is required must be accounted for by either affirmative acts or acceptable excuses. *Rebstock v. Flouret*, 191 USPQ 342, 345 (Bd. Pat. Inter. 1975); *Rieser v. Williams*, 225 F.2d 419, 423, 118 USPQ 96, 100 (CCPA 1958).

The diligence of attorney in preparing and filing patent application inures to the benefit of the inventor. Conception was established at least as early as the date a draft of a patent application was finished by a patent attorney on behalf of the inventor. Conception is less a matter of signature than it is one of disclosure. Attorney does not prepare a patent application on behalf of particular named persons, but on behalf of the true inventive entity. Six days to execute and file application is acceptable. *Haskell v. Coleburne*, 671 F.2d 1362, 213 USPQ 192, 195 (CCPA 1982). See also *Bey v. Kollonitsch*, 866 F.2d 1024, 231 USPQ 967 (Fed. Cir. 1986) (Reasonable diligence is all that is required of the attorney. Reasonable diligence is established if attorney worked reasonably hard on the application during the continuous critical period. If the attorney has a reasonable backlog of unrelated cases which he takes up in chronological order and carries out expeditiously, that is sufficient. Work on a related case(s) that contributed substantially to the ultimate preparation of an application can be credited as diligence.). (MPEP 2138.06)

G. Because the entire period during which diligence is required must be accounted for by either affirmative acts or acceptable excuses, the evidence submitted is insufficient to establish diligence for the critical period. It appears that Applicant may be relying on Attorney's

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actions during the critical period. If so, then an affidavit by the attorney may be needed. (See penultimate section of MPEP 2138.06 "Diligence in Preparing and Filing Patent Application").

**The Examiner notes that the substantive comments are merely for guidance and are not comprehensive. The affidavit is deficient on its face because of improper execution.**

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims **43-55 and 61** are rejected under 35 U.S.C. 102(e) as being unpatentable by *Glezerman* (US Publication 2003/0207237).



**Regarding claim 43,** *Glezer* teaches a method of teleporting users between a plurality of virtual reality environments, said method comprising the steps of: creating a user group associated with a departure virtual reality environment containing at least one user; establishing a continuous network communication between each of the hosts associated with the user group; identifying a destination virtual reality environment; transmitting data representing the destination virtual reality environment from a server host to each of the hosts of the user group; and establishing a network connection between the server host and the hosts of the user group within the destination virtual reality environment (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037).

**Regarding claim 45,** *Glezer* teaches a host computer for accessing a networked virtual reality environment, said host computer comprising: a data storage device which is adapted to store data representing the virtual reality environment and program code for accessing and displaying the virtual reality environment, said program code including means for storing data representing the virtual reality environment, means for executing a plurality of commands to activate the virtual reality environment, means for running the virtual reality environment once activated, and means for enabling the host to establish network communications with at least one other host within the virtual reality environment; a display device; a user input device; and a processor connected to said data storage device, display device and user input device (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 49,** *Glezer* teaches a computer program product on a media that is stored on a host computer for accessing a networked virtual reality environment, said computer

program product comprising; computer readable code means for storing data representing the virtual reality environment; computer readable code means for executing a plurality of commands to activate the virtual reality environment; computer readable code means for running the virtual reality environment once activated; and computer readable code means for enabling the host to establish a network communication with at least one other host for accessing the virtual reality environment (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 53,** *Glezer* teaches a data server for facilitating network communication between a plurality of hosts within a virtual reality environment, said data server comprising: means for storing data representing the virtual reality environment; and means for transmitting the data representing the virtual reality environment to a host computer which receives the virtual reality data to establish a networked communication session with a plurality of other hosts within the virtual reality environment (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 61,** *Glezer* teaches a computer program product for enabling a plurality of host computers to access a virtual reality environment, said computer program product comprising: a computer readable storage medium having computer readable program code means embodied in said medium, said computer readable program code means including computer readable code means for storing data representing the virtual reality environment, computer readable code means for executing a plurality of commands to activate the virtual reality environment, computer readable code means for running the virtual reality environment

once activated, and computer readable code means for enabling a host to establish a network communication with at least one other host (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 44,** *Glezer* teaches the method of Claim 43, which includes the steps of causing each of the users of the user group to access a teleporter via an entry point and a corresponding entry point clone each associated with the departure virtual reality environment; and establishing the continuous network communication between the hosts of the user group each located within the teleporter (page 2, section 0020-0023).

**Regarding claim 46,** *Glezer* teaches the host computer of Claim 45, wherein the data representing the virtual reality environment includes static virtual reality data and dynamic virtual reality data (page 2, section 0020-0023 and page 6, section 0060).

**Regarding claim 47,** *Glezer* teaches the host computer of Claim 46, wherein the program code includes means for enabling the host computer to establish network communications with a data server to receive the static virtual reality data (page 4, section 0034 and 0037).

**Regarding claim 48,** *Glezer* teaches the host computer of Claim 45, wherein the host computer establishes network communication with the at least one other host via a session server associated with the host computer (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 50,** *Glezer* teaches the computer program product of Claim 49, wherein the data representing the virtual reality environment includes static virtual reality data,

dynamic virtual reality data and combinations thereof (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 51,** *Glezer* teaches the computer program product of Claim 50, which includes computer readable code means for enabling the host computer to establish network communication with a data server to receive the static virtual reality data (page 2, section 0020-0023 and page 4, section 0034 and 0037).

**Regarding claim 52,** *Glezer* teaches the computer program product of Claim 49, wherein the host computer establishes network communication with the other hosts via a session server associated with the host computer (fig.1 and page 1, section 0005 and page 2, section 0020-0023).

**Regarding claim 54,** *Glezer* teaches the data server of Claim 53, wherein data representing the virtual reality environment is static virtual reality data (page 2, section 0020-0023 and page 4, section 0034 and 0037).

**Regarding claim 55,** *Glezer* teaches the data server of Claim 53, wherein the host computer receives the data representing the virtual reality environment in a single transmission from the data server (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **1-42 and 56-60** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Glezerman* (US Publication 2003/0207237) in view of *Whitfield* (US Publication 2002/0002491).

**Regarding claim 1**, *Glezerman* teaches a networked computer system for enabling a plurality of users to access a virtual reality environment and interact in said virtual reality environment, said system comprising; data representing the virtual reality environment including static virtual reality data and dynamic virtual reality data; a server host adapted to receive and store data representing the virtual reality environment and adapted to change, store and transmit said dynamic virtual reality data representing the virtual reality environment; and said client host adapted to receive said dynamic virtual reality data from the server host (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host; and a client host adapted to communicate with at least one of the servers to obtain said data representing the location of the server host to locate the server host, and said client host adapted to receive said dynamic virtual reality data from the server host and to receive said static virtual reality data from one of the servers to access said virtual reality environment (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been

obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by having a plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 16,** *Glezerman* teaches a method for users to interact within a virtual reality environment, said method comprising the steps of: establishing a network communication between the hosts to access the virtual reality environment wherein at least one of the hosts acts as a server host for transmitting dynamic virtual reality data to at least one other host (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches providing a plurality of hosts and servers interconnected with the hosts wherein the servers store and transmit data including informational data and static virtual reality data to the hosts; locating the hosts by utilizing the informational data from the servers (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by providing a plurality of hosts and servers interconnected with the hosts wherein the servers store and transmit data including informational data and static virtual reality data to the hosts; locating the hosts by utilizing the

informational data from the server because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 30,** *Glezer* teaches a method of registering a host and a user within a virtual reality networked computer system, said method comprising the steps of: transmitting information data from the host and user to the nearest located server (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezer* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches establishing a network communication between a host and a server; issuing a registration request from the host to the server; transmitting the registration request to at least one other server; determining the server nearest to the registering host and user; assigning unique identifiers to the host and the user; and updating at least one database associated with the nearest located server with the informational data (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezer* by establishing a network communication between a host and a server; issuing a registration request from the host to the server; transmitting the registration request to at least one other server; determining the server nearest to the registering host and user; assigning unique identifiers to the host and the user; and updating at least one database associated with the nearest located server with the informational data because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 32,** *Glezer* teaches a method of locating a user and a host within a virtual reality networked computer system, said method comprising the steps of: establishing a network communication between said hosts; determining a location of the users; and establishing a network communication with the users via the hosts associated with users (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezer* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches issuing a location request from a host to a low level server; transmitting the location request from the low level server to at least one upper level server; transmitting the location request from said upper level server to a plurality of other lower level servers until another host having a host name associated with the location request is located (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezer* by issuing a location request from a host to a low level server; transmitting the location request from the low level server to at least one upper level server; transmitting the location request from said upper level server to a plurality of other lower level servers until another host having a host name associated with the location request is located because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 35,** *Glezer* teaches a method of operating a virtual reality environment in an active mode within a networked computer system, said method comprising the



steps of: activating the virtual reality environment associated with the server host; transmitting data representing the virtual reality environment from the server host to the client host; interacting within the virtual reality environment; and continuing the network communication between the client host and the server host (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches establishing a network communication between a client host and server host via a plurality of servers each associated with the client hosts and the server hosts (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by establishing a network communication between a client host and server host via a plurality of servers each associated with the client hosts and the server hosts because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 39,** *Glezerman* teaches a method of operating a virtual reality environment within a networked computer system in a passive mode, said method comprising the steps of: transmitting data representing a copy of the virtual reality environment from the server host to the client host; discontinuing the network communication between the client host and the server host; and activating the transmitted data representing a copy of the virtual reality

environment at the client host (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches establishing host via a plurality of servers associated with the client host and the server host; a network communication between a client host and server transmitting data representing a copy of the virtual reality environment from the server host to the client host (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by establishing host via a plurality of servers associated with the client host and the server host; a network communication between a client host and server transmitting data representing a copy of the virtual reality environment from the server host to the client host because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 41,** *Glezerman* teaches a method of temporarily relocating networked computer system, said method comprising the steps of: establishing a network communication between the host and home session server associated with the host; calculating a logical distance between the host and the home session server; calculating a logical distance between the host and a plurality of session servers in geographic proximity to the host (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches redirecting the host to the session server other than the home session server if the logical distance between the host and the home session server is greater than the logical distance of at least one of the session servers in network proximity to the host; and updating the home session server with informational data associated with redirecting the hosts (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by redirecting the host to the session server other than the home session server if the logical distance between the host and the home session server is greater than the logical distance of at least one of the session servers in network proximity to the host; and updating the home session server with informational data associated with redirecting the hosts because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 42,** *Glezerman* teaches a method of permanently relocating a host within a virtual reality networked computer system, said method comprising the steps of: establishing a network communication between a host and home session server associated with the host (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches moving the host to the session server other than home session server during a

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network expansion; and updating the home session server with informational data associated with moving the host (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by moving the host to the session server other than home session server during a network expansion; and updating the home session server with informational data associated with moving the host because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 56,** *Glezerman* teaches a session server for facilitating network communication between a plurality of hosts within a virtual reality environment (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches said session server comprising; means for transmitting dynamic environment between the hosts; and data representing the virtual reality means for storing and transmitting informational data to locate the hosts (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by said session server comprising; means for transmitting dynamic environment between the hosts; and data representing the virtual reality means for storing and

transmitting informational data to locate the hosts because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 60,** *Glezer* teaches a networked computer system having a plurality of hosts each capable of communicating computer system comprising: within a virtual reality environment, said networked a server host including means for activating one or more virtual reality environments; and a client host capable of accessing one or more of the virtual reality environments associated with the server host (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezer* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches the client host including means for receiving dynamic data representing the virtual reality environment from the server host via a session server associated with the client host and means for receiving static data representing the virtual reality environment from a data server that stores the static data (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezer* by the client host including means for receiving dynamic data representing the virtual reality environment from the server host via a session server associated with the client host and means for receiving static data representing the virtual reality environment from a data server that stores the static data because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 3,** *Glezerman* teaches the system of Claim 1 (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches wherein the servers include a plurality of session servers for storing and transmitting informational data associated with the server host and the client host to locate the client host and server host (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by wherein the servers include a plurality of session servers for storing and transmitting informational data associated with the server host and the client host to locate the client host and server host because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 23,** *Glezerman* teaches the method of Claim 16 (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches wherein the locating step includes locating the hosts in a follow user mode (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention

was made to further modify the networked computer system of *Glezerman* by wherein the locating step includes locating the hosts in a follow user mode because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 24,** *Glezerman* teaches the method of Claim 16 (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches wherein the locating step includes locating the hosts in a visit user home mode (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by wherein the locating step includes locating the hosts in a visit user home mode because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 33,** *Glezerman* teaches the method of Claim 32 (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches which includes the step of locating the hosts in a visit user mode (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to

further modify the networked computer system of *Glezerman* by which includes the step of locating the hosts in a visit user mode because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 34,** *Glezerman* teaches the method of Claim 32 (fig.1 and page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

*Glezerman* does not teach plurality of servers adapted to store and transmit said data representing the virtual reality environment and data representing the location of the server host. *Whitfield* teaches wherein the step of determining the location of the users includes determining the location in a follow user mode (fig.1 and page 2, section 0035-0037 and 0039-0040 and page 3, section 0042-0044 and 0046). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the networked computer system of *Glezerman* by wherein the step of determining the location of the users includes determining the location in a follow user mode because this enables a plurality of users in various locations to communicate and operate a virtual environment.

**Regarding claim 2,** *Glezerman* teaches the system of Claim 1, wherein at least one of the servers includes a data server for storing and transmitting said static virtual reality data (page 2, section 0035-0037).

**Regarding claim 4,** *Glezerman* teaches the system of Claim 3, wherein the session servers include a database for storing updated informational data (page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049).



**Regarding claim 5,** *Glezer* teaches the system of Claim 1, wherein the servers include a plurality of name servers for storing and transmitting data associated with a plurality of session servers and a plurality of data servers (page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049).

**Regarding claim 6,** *Glezer* teaches the system of Claim 5, wherein the data includes a session server name, a session server IP address and a session server status and routing information (page 1, section 0005 and page 2, section 0020-0023 and page 4, section 0034 and 0037 and page 5, section 0049).

**Regarding claim 7,** *Glezer* teaches the system of Claim 1, which includes means for assigning access restrictions to the server host (page 4, section 0034 and 0037).

**Regarding claims 8, 29, and 59,** *Glezer* teaches the system of Claims 1, 16, and 56, which includes means for registering the client host and server host with at least one of the servers (page 4, section 0034 and 0037).

**Regarding claim 9,** *Glezer* teaches the system of Claim 1, wherein the virtual reality environment is run in an active mode between the client host and the server host (page 1, section 0005 and page 2, section 0020-0023).

**Regarding claim 10,** *Glezer* teaches the system of Claim 9, wherein the client host and the server host establish a continuous network communication with one another to facilitate interaction in the virtual reality environment between a user of the server host and a user of the client host (page 1, section 0005 and page 2, section 0020-0023).

**Regarding claim 11,** *Glezer* teaches the system of Claim 9, wherein the server host and the client host transmit dynamic virtual reality data to each other to update the virtual reality environment (page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 12,** *Glezer* teaches the system of Claim 11, wherein the server host simultaneously functions as a server host and a client host relative to a plurality of different virtual reality environments (fig.1 and page 1, section 0005 and page 2, section 0020-0023).

**Regarding claim 13,** *Glezer* teaches the system of Claim 1, wherein the virtual reality environment is run in a passive mode between the client host and the server host (fig.1 and page 1, section 0005 and page 2, section 0020-0023).

**Regarding claim 14,** *Glezer* teaches the system of Claim 13, wherein the server host transmits dynamic data representing a copy of the virtual reality environment at a particular time to the client host (page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 15,** *Glezer* teaches the system of Claim 14, wherein a network communication between the client host and the server host is discontinued after the data representing a copy of the virtual reality environment at a particular time is transmitted to the client host (fig.1 and page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 17,** *Glezer* teaches the method of Claim 16, which includes the step of performing a plurality of computer applications within the virtual reality environment (page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 18,** *Glezer* teaches the method of Claim 16, which includes the step of creating and customizing a personal virtual reality environment (page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 19,** *Glezer* teaches the method of Claim 18, wherein the personal virtual reality environment is a home or business environment (page 1, section 0005).

**Regarding claim 20,** *Glezer* teaches the method of Claim 16, which includes the step of establishing the network communication between the users within the virtual reality environment (and page 1, section 0005).

**Regarding claim 21,** *Glezer* teaches the method of Claim 16, which includes the step of performing dynamic host roaming (fig.1 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 22,** *Glezer* teaches the method of Claim 16, which includes the step of performing host name aliasing (fig.1 and page 5, section 0049 and page 6, section 0060).

**Regarding claims 25 and 57,** *Glezer* teaches the method of Claims 16 and 56, wherein the network communication step includes establishing the network communication by multi-cast messaging (page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claims 26 and 58,** *Glezer* teaches the method of Claims 16 and 56, wherein the network communication step includes establishing the network communication by uni-cast messaging (page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 27,** *Glezer* teaches the method of Claim 16, wherein the hosts access the virtual reality environment in an active mode (fig.1 and page 1, section 0005 and page 2, section 0020-0023).

**Regarding claim 28,** *Glezer* teaches the method of Claim 16, wherein the hosts access the virtual reality environment in a passive mode (fig.1 and page 1, section 0005 and page 2, section 0020-0023).

**Regarding claim 31,** *Glezer* teaches the method of Claim 30, which includes the steps of transmitting the registration request from a plurality of higher level name servers to a plurality of lower level name servers and session servers until the session server nearest to the registering host is located (page 4, section 0034 and 0037).

**Regarding claim 36,** *Glezer* teaches the method of Claim 35, wherein the client host and the server host simultaneously function as both a client host and a server host relative to a plurality of different virtual reality environments (fig.1 and page 1, section 0005 and page 2, section 0020-0023).

**Regarding claim 37,** *Glezer* teaches the method of Claim 35, wherein the activating and transmitting steps further include activating and transmitting data representing the virtual reality environment in a stealth mode (page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

**Regarding claim 38,** *Glezer* teaches the method of Claim 35, which includes the step of activating the transmitted data representing the virtual reality environment in a current active mode (page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

Regarding claim 40, *Glezerman* teaches the method of Claim 39, which includes creating a user group by establishing a network communication between the client host and an additional other client hosts that each include data representing a copy of the virtual reality environment (page 4, section 0034 and 0037 and page 5, section 0049 and page 6, section 0060).

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to virtual reality environments in general: *Marshall*, *Melkomian et al.*, *Maples et al.*, *Lipkin*, and *Lecton et al.*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 (or after July 15, 2005, new fax number will be 571-273-8300).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Kristie Shingles*  
*Examiner*  
*Art Unit 2141*

*kds*

  
RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER